146 FERC ¶ 61,156 UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman; Philip D. Moeller, John R. Norris,

and Tony Clark.

Millennium Pipeline Company, LLC

Docket No. RP14-439-000

ORDER ACCEPTING TARIFF RECORDS

(Issued March 5, 2014)

1. On February 3, 2014, Millennium Pipeline Company, LLC (Millennium) filed proposed amended tariff records¹ to its FERC Gas Tariff, First Revised Volume No. 1 (Tariff), to allow the recovery of electric costs incurred in the operation of electric heaters associated with its gas-fired compressors used to provide transportation services to customers. Millennium proposes to recover electric costs as a component of its existing Retainage Percentage as calculated under section 32 of the General Terms and Conditions (GT&C) of its Tariff. Millennium requests an effective date of March 6, 2014, for the proposed amended tariff records. As discussed below, the Commission accepts Millennium's revised tariff records effective March 6, 2014, as requested.

Background

2. The Commission authorized Millennium to construct the Minisink Compressor Station (Minisink) in 2012,² and authorized Millennium to construct the Hancock Compressor Station (Hancock) in 2013.³ As a component of both of these compressor station projects, Millennium installed or is installing electric-powered line heaters to facilitate the flow of natural gas. Millennium commenced service at Minisink on June 1, 2012, and anticipates commencing service at Hancock on April 1, 2014.

¹ See Appendix A.

² See Millennium Pipeline Co., L.L.C., 140 FERC \P 61,045, reh'g denied, 141 FERC \P 61,198 (2013).

³ See Millennium Pipeline Co., L.L.C., 145 FERC ¶ 61,007 (2013).

Details of Millennium's Filing

- 3. Millennium proposes a tariff mechanism to recover electric costs incurred by the operation of the line heaters at the Minisink and Hancock stations in periodic filings outside of a general section 4 rate case. Millennium asserts that, while generally requiring pipelines to recover costs through general rate filings, the Commission has allowed exceptions to this policy for certain cost items, including fuel, that "may be more volatile than most and thus more difficult to project than typical cost items in the pipeline's cost-of-service." Millennium states that, pursuant to section 154.403(a) (18 C.F.R. § 154.403(a) (2013)), a pipeline may pass through certain cost or revenue items to its customers on a periodic basis and revise its gas reimbursement percentage on a periodic basis. Moreover, Millennium asserts that the Commission has permitted pipelines to use limited section 4 filings to establish such periodic cost recovery mechanisms.⁵
- 4. Millennium states that section 32 of the GT&C of its Tariff sets forth a Retainage Adjustment Mechanism (RAM) through which Millennium recovers from its customers gas used at compressor stations and at fuel heaters. Millennium is proposing to amend GT&C section 32 and the definition of "Retainage" in GT&C section 1.36 of its Tariff to allow it to also recover through the RAM electric costs incurred to run electric fuel heaters that are required to provide jurisdictional service. Millennium states that it is proposing a method for converting these electric costs to Dekatherms so that shippers may continue to pay a single retention percentage rather than paying both a retainage percentage and an electric cost reimbursement fee. Millennium states its proposal should cause only a minor increase in its fuel retention percentages because its electric costs are expected to be minimal in comparison to the fuel costs incurred to provide service. Millennium also asserts that its proposed true-up mechanism in its RAM filings will preclude recovery of excess of costs.
- 5. Millennium states that it will implement the proposed electric cost tracker under GT&C section 32.4 of its Tariff by estimating its projected electric costs for the 12-month period following the effective date of its RAM filing (typically, April 1 of each year). Millennium asserts that proposed GT&C section 32.4(a)(ii) would allow it to convert the estimated electric costs to the Dekatherm equivalent by dividing its projected electric costs by the annual average "Spot Market Price" for the preceding calendar year

⁴ Millennium Transmittal at 2 (citing *ANR Pipeline Co.*, 110 FERC \P 61,069, at P 23 (2005)).

⁵ Millennium Transmittal at 2 (citing *Columbia Gas Transmission, LLC*, 139 FERC ¶ 61,141 (2012); *see also Sea Robin Pipeline Co.*, LLC, 130 FERC ¶ 61,191 (2010)).

(Preceding Annual Period). Millennium contends that the annual Spot Market Price will avoid seasonal price volatility. Once Millennium has determined the quantity of gas it must retain to cover its electric costs, Millennium states it will add this figure to the amount of gas necessary to recover company-use and lost and unaccounted for (LAUF) quantities to arrive at the Current Retainage Quantity. Consistent with its retainage provision, Millennium avers that the Current Retainage Quantity is divided by the projected throughput under Millennium's Rate Schedules FT-1, FT-2, BH-1, HT-1 and IT-1 (or, Current Rate Schedule Quantities) to yield the Current Retainage Percentage.

- 6. Millennium states that it will true-up unrecovered and over recovered quantities by: (a) calculating the electric costs incurred for the Preceding Annual Period and dividing that figure by the average Spot Market Price for the Preceding Annual Period; and (b) calculating the quantity of gas required for the Preceding Annual Period for company-use, LAUF quantities. Millennium states that it will then add the gas required to recover its electric costs and its quantity of company-use and lost and unaccounted for quantities and subtract the amount of gas that Millennium actually retained during the Preceding Annual Period to yield the Unrecovered Retainage Quantity. Millennium states that the Unrecovered Retainage Quantity, whether a positive or negative number, is divided by the Current Rate Schedule Quantities to yield the Unrecovered Retainage Percentage. Millennium states that the Retainage Percentage that applies to Millennium's shippers is the sum of the Current Retainage Percentage and the Unrecovered Retainage Percentage.
- 7. Millennium submits that it is reasonable to collect its variable electric costs associated with its gas-fired compression units through its RAM. Millennium avers that gas retained to cover electric costs will be a relatively minor component of its retainage compared to gas retained to cover compressor fuel and LAUF quantities. Based on the first seven months of operations at Minisink, Millennium anticipates that, once both Minisink and Hancock are operational, the annual electric costs for the fuel heaters will be no more than \$140,000. Millennium contends that, in 2013, the annual Spot Price, as calculated in accordance with Millennium's proposed method, was \$3.81/Dth. Millennium asserts, therefore, that it expects the total fuel associated with the heaters to be about 36,750 Dth/year, which is less than three percent of the total system fuel anticipated to be used in a normal year once Hancock goes into service.
- 8. Millennium argues that its proposed tariff revisions are consistent with the Commission's applicable requirements. Millennium states that a pipeline that passes through a cost or revenue item must state the methodology and timing of the pass-through in the GT&C of its tariff. In addition, Millennium states that the Commission has required pipelines that track costs to include a true-up mechanism in their tariffs so that

⁶ Millennium Transmittal at 4 (citing 18 C.F.R. § 154.403(c) (2013)).

revenue collected effectively reimburses the pipeline for costs incurred without permitting over-recovery. Millennium claims that the proposed tariff revisions comply with these requirements.

9. Finally, Millennium states that, pursuant to GT&C section 32 of its Tariff, Millennium's next RAM filing is due on March 1, 2014 to be effective April 1, 2014. Millennium anticipates that this RAM filing will include the electric costs proposed in this proceeding.

Public Notice, Protest and Answer

- 10. Public notice of the filing was issued on February 4, 2014. Interventions, comments and protests were due on or before February 18, 2014, as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2013)), all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. On February 18, 2014, a protest was filed by New Jersey Natural Gas Company (New Jersey Natural) and NJR Energy Services Company (NJRES) (jointly, NJR Companies). On February 21, 2014, Millennium filed an answer to the protest. While the Commission's regulations do not permit the filing of answers to protests, the Commission will accept Millennium's answer because it provides additional information which aids in our decision-making process.
- 11. In their protest, NJR Companies contend that Millennium's filing is unjust, unreasonable, and unduly discriminatory because it fails to accurately track and recover Millennium's actual electric costs and may over recover those costs from its transportation services customers. NJR Companies argue that, as proposed, Millennium seeks to recover the electric costs incurred in the operation of electric heaters by converting the cost of electricity into units of natural gas (measured in Dths) to be recovered from its transportation services customers through its existing Retainage Percentage. NJR Companies state that below is a simple example of the proposed recovery mechanism using values included by Millennium in its filing as well as an approximation of throughput:

⁷ Millennium Transmittal at 4 (citing *Sabine Pipe Line LLC*, 116 FERC ¶ 61,309, at P 16 (2006) (*Sabine*)).

⁸ 18 C.F.R. § 385.213 (2013).

Example A:

Estimate Annual Electric Costs: \$140,000 Annual Average Spot Market Price: \$3.81 per Dth

Dekatherms (Electric Cost Proxy): 36,745 (\$140,000/\$3.81)

Estimated Annual Throughput: 300,000,000 Dth

Retainage (Electric Cost Only) 0.01225%

Value of Gas Retained: \$140,000 (300,000,000 *

 $0.0001225 * 3.81)^9$

NJR Companies assert that, as shown, the "value" of the additional gas retained by Millennium equals its estimated annual electric costs, assuming that all of the gas delivered by shippers is priced at the annual Spot Market Price of \$3.81 per Dth. NJR Companies argue that throughput on Millennium, however, is not uniform throughout the year and neither are gas prices, which could lead to an over or under recovery of costs.

12. Assuming a tendency of both gas demand (and therefore, throughput) and gas prices to rise during the winter months, NJR Companies aver that the total value of the gas retained by Millennium under the proposed mechanism referenced above is likely to exceed Millennium's actual electric costs. NJR Companies propose that the Commission consider the following example with the same Estimated Annual Electric Costs (\$140,000), Estimated Annual Throughput (\$300,000,000 Dth) and Annual Average Spot Market Price (\$3.81 Dth) as in Example A, above, but with one third of the throughput occurring during the core winter months when gas prices average \$5.25 per Dth:

Example B:¹⁰

	Dec-Feb	Mar-May	Jun-Aug	Sep-Nov	Total
Throughput	100,000,000	67,000,000	67,000,000	67,000,000	300,000,000
(Dth)					
Retainage	0.01225%	0.01225%	0.01225%	0.01225%	0.01225%
Retained	12,250	8,207.5	8,207.5	8,085	36,750
Volumes					
Gas Price	\$5.25	\$3.33	\$3.33	\$3.33	

⁹ NJR Companies Protest at 4.

¹⁰ NJR Companies Protest at 5.

(\$/Dth)					
Value of Gas	\$64,312.50	\$27,330.98	\$27,330.98	\$26,923.05	\$145,897.50
Retained					

NJR Companies argue that, under the above scenario, Millennium would over-recover its electric costs by \$5,897.50 (\$145,897.50 - \$140,000) or approximately, 4.2 percent.

- 13. NJR Companies acknowledge that, while \$5,897.50 is a small amount of money, the percentage disparity of 4.2 percent between cost recovery and actual costs shows that the proposed electric cost recovery mechanism does a poor job tracking actual costs. Therefore, NJR Companies argue that Millennium's proposed electric cost recovery mechanism fails at its fundamental purpose. Finally, NJR Companies aver that, if this mechanism was employed to recover greater cost amounts, the disparity would likely be unsupportable on face value alone.
- 14. In addition, NJR Companies maintain that the true-up mechanism proposed by Millennium would not mitigate the disparity because it does not take into account differences in throughput and gas prices throughout the year. As a result, NJR Companies state that, like the proposed electric cost recovery mechanism itself, the true-up mechanism fails at its essential purpose of ensuring that costs recovered track actual costs.
- 15. NJR Companies argue that, given the shortcomings of Millennium's proposed electric cost recovery mechanism, a traditional electric cost recovery fee expressed in dollars that maintains a separation between monetary recovery of electric costs and inkind recovery of gas costs is superior. NJR Companies state, as Millennium notes in its tariff filing, that section 154.403(d)(1)(ii) of the Commission's regulations (18 C.F.R. § 154.403(d)(1)(ii) (2013)), already provides for the establishment of a new fuel reimbursement surcharge so nothing would prohibit Millennium from designing and refiling an electric cost recovery fuel surcharge that could be assessed on all transportation service customers. For example, again assuming estimated annual throughput of 300,000,000 Dth and estimated annual electric costs of \$140,000, NJR Companies assert that the new variable rate electric cost fuel recovery surcharge would be \$0.000467 per Dth. NJR Companies state that this amount could be trued-up annually against actual throughput and actual electric costs to ensure accurate recovery. Accordingly, NJR Companies request that the Commission reject Millennium's proposed tariff revisions and encourage Millennium to refile for authorization to assess a traditional electric cost recovery fee.
- 16. In its answer, Millennium states that the NJR Companies' arguments about the accuracy of Millennium's proposed method for collecting limited electric costs are unsupported. Millennium asserts that its methodology tracks costs as precisely as is reasonable for the situation and that it mitigates month-to-month price volatility by using an annual average spot price. Millennium avers that, as required by the Commission, the

Retainage that Millennium collects to recover its electric costs will be trued-up annually to ensure that costs are not over or under recovered.

- Millennium states that NJR Companies posit an example purporting to demonstrate how Millennium might over recover its costs. However, Millennium claims that NJR Companies' example is based on flawed information about the seasonal variance in throughput on Millennium's system and in any event, NJR Companies' forecasted over recovery is insignificant. Millennium argues that, in NJR Companies' example, it is assumed that throughput on Millennium's system will be higher in the winter months when gas prices are higher. However, Millennium counters that this assumption is inconsistent with recent trends on Millennium's system. Millennium maintains that, as reflected in its most recent filing to adjust its Retainage Percentage, throughput on its system has been relatively consistent from month-to-month. 11 Millennium contends that, in contrast to NJR Companies' statements, the highest level of throughput on Millennium's system in 2012 did not occur during the winter months, but in the summer, when many of Millennium's shippers release their capacity to asset managers to market. In addition, Millennium avers that, contrary to NJR Companies' assertion that a third of the annual throughput on Millennium's system will occur during the three winter months, the actual results for 2012 show that less than one-fourth of Millennium's throughput occurred during the three months postulated by NJR Companies.¹²
- 18. Even assuming that NJR Companies' projections about the throughput on Millennium's system were realistic, Millennium states that even NJR Companies acknowledge that the potential amount of over recovered costs that it projects is not substantial. Millennium argues it has proposed a reasonable method that will allow it to recover its costs for operating electric heaters necessary to provide jurisdictional transportation. Millennium states that, consistent with Commission policy, it has also proposed a reasonable method to true-up its actual costs to the value of the gas retained. In contrast, Millennium argues that NJR Companies request a degree of precision in allocating these costs that is not called for by the magnitude of the costs or required under the NGA. Noting that the allocation of costs, "involves judgment on a myriad of facts,"

¹¹ Millennium Answer at 4 (citing Docket No. RP13-597-000, *Millennium Pipeline Co.*, *LLC* Work Paper No. 1 (filed February 28, 2s013)).

¹² See Appendix B.

¹³ Millennium Answer at 5 (citing *Sabine*, 116 FERC ¶ 61,309 at P 16).

Millennium asserts that the Commission has recognized that "there may be several allocation methodologies that are just and reasonable." ¹⁴

- 19. Millennium states that NJR Companies acknowledge that the costs Millennium seeks to recover will be a minimal portion of its fuel costs. Millennium states, however, that NJR Companies go on to allege that, if the electric cost recovery mechanism was employed to recover greater amounts of costs, the disparity between actual costs and the value of gas retained would be intolerable. Millennium counters that this statement is speculative because it has only proposed to collect costs associated with electric heaters at its gas-fired compressor stations (projected to be about \$140,000 per year). Finally, Millennium argues that it has not proposed to recover any cost other than a very small and discrete set of electric costs and there is no reason to suspect that these costs will significantly exceed Millennium's projections.
- 20. Millennium states that, in lieu of recovering the minor electric heater costs through gas retainage as it has proposed, NJR Companies suggest that Millennium recover its electric costs through a monetary surcharge. Millennium contends that such a mechanism would require modifications to its billing system to collect this new surcharge and is not practical given the small magnitude of the costs. Millennium argues, as NJR Companies point out, an electric cost surcharge could be determined to be less than five-hundredths of a cent per Dth (\$0.0005/Dth). Millennium states that, for its smaller customers, the monthly surcharge could be as insignificant as a few cents. Millennium asserts that many of its contracts have been released to retail marketers whose total throughput is very small with recent monthly bills for some of these shippers as little as \$100 per month. Millennium argues that collecting such small amounts from various shippers could result in a wasteful administrative burden.
- 21. Furthermore, Millennium adds that it is not likely that a surcharge would receive the support of its other shippers. Millennium states that on November 21, 2013 and December 10, 2013, it convened meetings in Pearl River, New York, and Houston, Texas, respectively, to obtain feedback from its shippers regarding the tariff revisions that are the subject of this proceeding. Millennium states that it received no significant negative feedback from its shippers at the meetings and none of its major shippers have protested the filing. Millennium argues that, NJR Companies, whose service accounts for only a fraction of one percent of the annual throughput on Millennium's system, are the only protesters of the proposed tariff change. Therefore, Millennium requests that the Commission reject NJR Companies protest and approve the proposed tariff amendments as filed effective March 6, 2014.

¹⁴ Millennium Answer at 5 (citing *Kern River Gas Transmission Co.*, 115 FERC ¶ 61,236, at P 16 (2006)).

Discussion

- 22. The Commission accepts Millennium's proposal to recover monetary electric costs incurred in the operation of electric heaters associated with its gas-fired compressors as a component of its existing Retainage Percentage. The Commission has been concerned that recovery of monetary electric costs through the in-kind collection of natural gas in a pipeline's fuel cost tracking mechanism may lead to unjust and unreasonable results. ¹⁵ In particular, the fluctuating relationship between electric costs and natural gas prices can increase the volatility of fuel filings. Also, the conversion of electric costs to natural gas volumes can make a pipeline's fuel tracker filing less transparent and more difficult for shippers and the Commission to evaluate. However, Millennium's electric heater costs are very small as compared to its total fuel costs. ¹⁶ Therefore, the inclusion of those costs in Millennium's RAM filings should not cause any significant volatility in Millennium's fuel retention percentages or affect the transparency of its RAM filings. In these circumstances, it is reasonable for Millennium to recover the electric heater costs through its RAM filings, and thereby avoid the administrative burden of a separate electric cost tracker.
- 23. The Commission rejects the arguments raised by NJR Companies. The examples NJR Companies submits in support of its contention that Millennium's proposal could lead to an over recovery of electric costs are not persuasive. For instance, NJR Companies' suggested Example B assumes that Millennium's throughput is higher during the winter heating months; however, the highest throughput on Millennium's system for year 2012 was during the summer months, as reported in Millennium's most recent filing to adjust its Retainage Adjustment, shown in Appendix B.
- 24. Moreover, Millennium is correct that, even if NJR Companies' examples were accurate, NJR Companies acknowledge that the potential amount of over recovery, if any, would be minuscule. The Commission requires pipelines to submit periodic cost recovery mechanisms that are as accurate as possible and to submit annual filings that true-up any over or under charges of these mechanisms. However, as Millennium correctly references, the Commission has previously decided that "[absolute precision from an allocation methodology...is not required." Accordingly, we determine that

¹⁵ See, e.g., Rockies Express Pipeline LLC, 138 FERC ¶ 61,241, at P 54 (2012).

¹⁶ Millennium estimates that, based on average 2012 gas costs, including the subject electric heater costs in its fuel tracker will increase the amount of fuel included in its RAM filings by less than three percent.

Millennium Answer at 5 (citing Kern River Gas Transmission Co., 115 FERC \P 61,236, at P16 (2006)).

Millennium's proposed cost recovery and true-up mechanisms comply with Commission policy and fall within the range of expectations for accuracy.

The Commission orders:

Millennium's proposed tariff records listed in Appendix A are accepted effective March 6, 2014, as requested.

By the Commission.

(SEAL)

Nathaniel J. Davis, Sr., Deputy Secretary.

Appendix A

Millennium Pipeline Company, LLC FERC NGA Gas Tariff Millennium Tariffs

Tariff Records Accepted Effective March 6, 2014:

Gen. Terms and Conditions, Section 1. Definitions, 2.0.0 Gen. Terms and Conditions, Section 32. Retainage, 2.0.0

Appendix B¹⁸

Millennium Pipeline Company, LLC Work Paper 1

				TARIFF		
Year	Flow Mo	Tariff FH	Tariff BH	DELIVERIES	MPC CUG	MPC LAUF
2012	1	13,084,073	8,118,499	21,202,572	5,676	96,944
2012	2	11,937,064	7,070,367	19,007,431	14,212	1,532
2012	3	13,620,549	7,229,740	20,850,289	22,420	52,838
2012	4	15,233,745	6,903,052	22,136,797	7,830	(6,404)
2012	5	17,676,870	6,037,495	23,714,365	2,724	(18,774)
2012	6	17,243,234	7,009,514	24,252,748	5,094	109,669
2012	7	18,559,472	7,144,953	25,704,425	1,796	68,753
2012	8	18,187,806	6,668,884	24,856,690	1,671	144,274
2012	9	17,497,898	4,189,354	21,687,252	1,920	159,564
2012	10	12,753,242	5,418,961	18,172,203	6,451	67,918
2012	11	17,819,778	5,229,301	23,049,079	30,175	(45,375)
2012	12	17,056,335	5,924,965	22,981,300	5,911	(275,032)
2012 TOTAL		190,670,066	76,945,085	267,615,151	105,880	355,908
2013 Forecasted		20 270 024	2 260 015	22 640 940	382,827	44,751
Operational Changes		30,279,934	3,369,915	33,649,849		
Total		220,950,000	80,315,000	301,265,000	488,707	400,659
2013 Percentage					0.221%	0.133%
Rounded Total		221,000,000	80,300,000	301,300,000	490,000	400,000
Percentage					0.222%	0.133%

¹⁸ Millennium Transmittal, Docket No. RP13-597-000, Annual Retainage Adjustment Mechanism compliance Filing, Work Paper 1.